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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,261	02/03/2000	Nicholas J. Mankovich	US000036	8558

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EXAMINER

ABDI, KAMBIZ

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/498,261

Applicant(s)

MANKOVICH ET AL.

Examiner

Kambiz Abdi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this section can be found in the prior office action.
2. The prior office action is incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.

Claim 13 has been canceled.

Claims 1, 7, 12, and 15 are amended.

Claims 1-20 are pending.

Response to Arguments

3. Applicant's arguments filed 10 January 2003 have been fully considered but they are not persuasive for the following reasons:

- In response to applicant argument rejection of Claims 1 under 35 U.S.C. § 102 as being anticipated by U.S. Patent no. 5,878,141 to Daly et al. Also in light of U.S. Patent no. 5,991,601 to Anderson.

Contrary to applicant's assertion, Daly clearly discloses a purchase request being made and associated information stored in a memory for eventual communication with purchase terminal for the purpose of obtaining the goods or services. It is inherent for a purchase request system to collect information in regards to identifying the merchants, the item to be attained, location, and pricing in order to make a purchase. This collected information usually is stored temporary in a memory (buffer) for further transfer to the transaction processor. In addition, the amended claims point to intended use, which does not have a patentable weight. Daly explains that purchase process needs access to data that is stored temporary in Set Top Box in purchase mediator as shown in figures 4 and 6 and their associated text along with column 6, lines 59-68 and column 7, lines 1-17. The holding of data in a memory for a temporary period (Buffer) is an old practice and it is defined as ; "a region of memory reserved for use as an intermediate repository in which data is temporarily held while waiting to be transferred between

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two locations or devices. For instance, a buffer is used while transferring data from an application, such as a word processor, to an input/output device, such as a printer.”

Additionally Anderson clearly teaches the fact that the purpose of their invention is “impulse purchasing” and the fact that the portable device is a tool to accommodate such impulse purchasing by the virtue of just activating a buy command based on the heard music, visual encounter to an advertising, or just scanning barcodes of interested items. The portability and ease of use based on impulse purchasing is clearly disclosed by Anderson.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1, 2, 4-7, 11, 12, 14-16, 19, and 20 are rejected under 35 U.S.C. 102 (e) being anticipated by Michael T. Daly et al., U.S. Patent No. 5,878,141 and U.S. Patent No. 5,991,601 to John R. Anderson.

6. (Twice amended) As for claim 1, a receiving system comprising:

a content access device that is configured to receive content material and an item identifier associated with the content material from a provider (See Daly figures 1,3, and 5 and associated text, and column 4, lines 1-20 and 49-68, and column 5, lines 1-20 and see Anderson column 2, lines 37-50 and column 7, lines 30-68), and

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a purchase request processor, operably coupled to the content access device and an input device, that is configured to receive a purchase request from the input device and the item identifier from the content access device, and produces therefrom a processed purchase request (See Daly figures 3 and 4 and associated text, and column 9, lines 8-68, and column 10, lines 1-68 and see Anderson column 3, lines 31-68, and column 4, lines 1-14),

a rendering device, operably coupled to the content access device, that is configured to render the content material (See Daly figures 1, 2, and 3 and associated text, and see Anderson column 7, lines 30-68), and

the input device including a purchase request buffer for impulse purchasing that allows a purchase request to be made during a same time that the rendering device is rendering content material by storing at least one purchase request and the item identifier to facilitate a purchase of an item corresponding to the item identifier subsequent to the rendering device rendering the content material (See Daly column 6, lines 59-68, column 7, lines 1-17, column 11, lines 63-68, and column 12, lines 1-11 and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68).

wherein the content access device is further configured to communicate the processed purchase request to the provider (See Daly figures 1, 3, and 5 and associated text, and column 10, lines 17-49, and see Anderson column 3, lines 31-68, and column 4, lines 1-14).

7. (Amended) As for claim 2, the receiving system of claim 1, further comprising:

wherein the content access device is further configured to associate the purchase request and the item identifier based on a coincidence of a time of receipt of the purchase request and a time interval associated with the rendering of the content material (See Daly figures 3, 4, and 5 and associated text, and column 11, lines 7-45, and see Anderson column 2, lines 37-50, column 3, lines 31-63, and column 30-68).

8. As for claim 4, the receiving system of claim 1, wherein the purchase request processor is further configured to receive a transferred purchase request and a transferred item identifier, and to produce there from the processed purchase request (See Daly figures 1, 3, 4, 5, and 6 and associated text, and column 4, lines 5-13 and 60-68 and column 5, lines 1-17).

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9. As for claim 5, The receiving system of claim 1, wherein
the purchase request processor is further configured to receive certification information
associated with the purchase request, and wherein
the processed purchase request includes the certification information (See Daly column 15, lines
9-45 and column 16, lines 1-18).
10. As for claim 6, The receiving system of claim 1, further including:
a "buy" switch, and wherein
the purchase request from the input device is produced in response to an activation of the "buy" switch
(See Daly figure 5 and associated text, and column 11, lines 22-45).
11. As for claim 7, a portable device comprising:
a broadcast receiver that is configured to receive content material and an item identifier
associated with the content material from a broadcast source,
a rendering device that is configured to render the content material, and
a purchase request buffer for impulse purchasing that allows a purchase request to be made
during a same time that the rendering device is rendering content material, said purchase request buffer
being configured to store at least one purchase request and the item identifier to facilitate a purchase of
an item corresponding to the item identifier subsequent to the rendering device rendering the content
material (See Daly figures 3 and 4 and associated text and column 6, lines 59-68, column 7, lines 1-17,
column 11, lines 63-68, and column 12, lines 1-11, and see Anderson abstract, column 2, lines 37-50,
and column 7, lines 30-68).
12. As for claim 11, the portable device of claim 7, further including:
a "buy" switch, and
wherein the purchase request is provided in response to an activation of the "buy" switch (See
Daly figure 5 and associated text).
13. (Twice amended) As for claim 12, a transfer device comprising:
a purchase request buffer that is configured to:

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store and receive a purchase request for a subsequent purchase from a first device during any time of operation of the first device (See Daly column 6, lines 59-68, column 7, lines 1-17, column 11, lines 63-68, and column 12, lines 1-11, and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68), and

transmit the purchase request to a second device (See Daly figures 1, 3, 4, and 5 and associated text, and associated text),

a memory configured for receiving content material from the second device in response to the purchase request (See Daly column 6, lines 59-68, column 7, lines 1-17, column 11, lines 63-68, and column 12, lines 1-11, and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68), and transmit the content material to the first device (See Daly figures 1, 3, and 4 and associated text and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68).

14. As for claim 14, the transfer device of claim 12, wherein

the first device includes a memory that contains content material and a controller that controls access to the content material based on an authorization, and

the purchase request buffer is further configured to:

receive the authorization from the second device in response to the purchase request, and transmit the authorization to the first device (See Daly figures 1, 3, 4, and 5 and associated text, and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68).

15. (Twice amended) As or claim 15, a method for facilitating a purchase of an item associated with content material, the process comprising:

receiving the content material and an identifier of the item,

rendering the content material,

allowing an impulse purchase to be made by receiving a buy command at a time that is coincident with a time interval associated with the rendering of the content material so that a purchase can be made during review of the content material (See Daly figures 1, 3, and 5 and associated text, and column 4, lines 1-20 and 49-68, column 5, lines 1-20 and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68),

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creating at least one purchase request that includes the identifier of the item in response to the buy command (See Daly figures 3 and 4 and associated text, and column 9, lines 8-68 and column 10, lines 1-68),

storing the at least one purchase request for subsequent purchase of the item (See Daly column 6, lines 59-68, column 7, lines 1-17, column 11, lines 63-68, and column 12, lines 1-11), and communicating the purchase request to a provider of the item (See Daly figures 3 and 4, and column 9, lines 8-68 and column 10, lines 1-68, and see Anderson abstract, column 2, lines 37-50, and column 7, lines 30-68)..

16. As for claim 16, the method of claim 15, wherein receiving the buy command includes receiving an activation signal associated with an activation of a "buy" switch (See Daly figures 4 and 5 and associated text).

17. As for claim 19, the method of claim 15, further including transferring the purchase request to one or more intermediary devices, and wherein communicating the purchase request to the provider is via the one or more intermediary devices (See Daly figures 3, 4, and 5 and associated text).

18. As for claim 20, the method of claim 15, further including attaching certification information to the purchase request that is communicated to the provider (See Daly figures 1, 3, 4, 5, and 7 and associated text, and column 14, lines 4-39).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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20. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Michael T. Daly et al., U.S. Patent No. 5,878,141 as applied to claim 1 above, and further in view of John R. Anderson, Patent No. 5,991,601.

As for claim 3, Daly et al. discloses all the limitations of claim 1 as discussed above. What Daly does not explicitly teach is the system to store content within a memory before access rights have been granted. However, Anderson clearly teaches a system and method for identification of a digital content based on a broadcast. Anderson teaches how to access a system to obtain such a digital item before usage right has been granted and store this digital content in a local memory (See Anderson column 8, lines 43-68 and column 9, lines 1-10 and 25-36).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to simply provide content to the users within the local memory before the usage rights or authorization has been granted. One good example of this kind digital content would be the software items. Traditionally software is delivered through a medium such as floppy disks, CD-ROMs, Magnetic Tapes, or via the internet. There are many software vendors that include the entire application or the game or any other content within the first delivery of content but limit the usage to either a limited time period or just a limited version of the application. Once the purchase process has been completed and an authorization has been received the entire digital content becomes available to the consumer.

21. Claims 8-10, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michael T. Daly et al., U.S. Patent No. 5,878,141 as applied to claims 1, 7, 12, and 15 above, and further in view of John R. Anderson, Patent No. 5,991,601, and Roy J. Mankovitz, Patent No. 5,949,492.

As for claims 8, 9, 10, 17 and 18 Daly et al. discloses all the limitations of claim 1, 12, and 15 as discussed above. What Daly does not explicitly teach is the system to store content within a memory before access rights have been granted. Additionally, Dayle does not explicitly teach the relationship between content identification and the time interval in conjunction with the rendering of the material. However, Anderson clearly teaches a system and method for identification of a digital content based on a

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broadcast. Anderson teaches how to access a system to obtain such a digital item before usage right has been granted and store this digital content in a local memory (See Anderson column 8, lines 43-68 and column 9, lines 1-10 and 25-36). The same argument of motivation can be stated as it has been discussed in the above claim.

In addition Mankovitz explicitly teaches a system for identification of the rendered material based on function of time in relation to the station that broadcasts the material (See Mankovitz column 2, lines 60-68 and column 3, lines 1-58). Identification of rendered material through a simultaneous broadcast of item identification along with the rendered material or usage of time, date, station call name combination or any combination thereof is a well known in the art and all aspects of these methods have been discussed in the above mentioned patents. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to incorporate a method of identifying a broadcast material based on relative information such as time, date, station call id in conjunction with other identifiable information from the broadcasting program.

Conclusion

22. Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Abdi whose telephone number is (703) 305-3364. The examiner can normally be reached on 9:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (703) 305-9768.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks
Washington, D.C. 20231**

or faxed to:

(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]

(703) 746-7749 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to:

**Crystal Park 5, 2451 Crystal Drive
7th floor receptionist, Arlington, VA, 22202**

**Abdi/K
February 21, 2003**

John V. Hayes
JOHN HAYES
Primary Examiner